

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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AKEEM ULMER,

Plaintiff,

-v-

9:15-CV-497  
(DNH/TWD)

CORRECTIONAL OFFICER DIBBLE, Franklin  
Correctional Facility; and SERGEANT  
BEDORE,

Defendants.  
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APPEARANCES:

AKEEM ULMER  
Plaintiff pro se  
2171 Madison Avenue 4B  
New York, NY 10037

HON. LETITIA JAMES  
Attorney General for the State of New York  
Attorney for Defendants  
The Capitol  
Albany, NY 12224

CHRISTOPHER J. HUMMEL, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Akeem Ulmer brought this civil rights action pursuant to 42 U.S.C. § 1983. On November 13, 2018, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that defendants' second summary

judgment motion, unopposed by plaintiff, be granted and that plaintiff's third amended complaint be dismissed. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Defendants Dibble and Bedore's motion for summary judgment is GRANTED WITHOUT PREJUDICE as to plaintiff's failure to exhaust administrative remedies on his Eighth Amendment excessive force and failure to intervene claims;

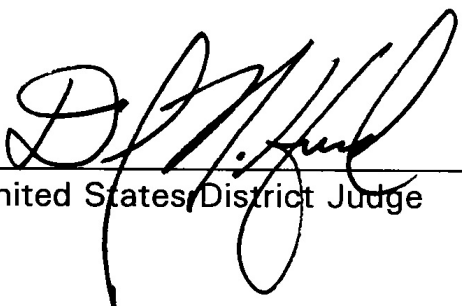
2. Defendant Bedore's motion for summary judgment on plaintiff's Eighth Amendment claim for excessive force and failure to intervene is GRANTED WITH PREJUDICE;

3. The action is DISMISSED WITHOUT PREJUDICE against all of the Doe defendants; and

4. Plaintiff's third amended complaint is DISMISSED in its entirety.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

  
United States District Judge

Dated: February 12, 2019  
Utica, New York.